

# **Korea's Comments on Intergovernmental Negotiating Committee on the UN Framework Convention on international Tax Cooperation**

## **Workstream I Draft Issues Note**

July 21, 2025

### **Abstract**

This submission provides Korea's comments on the Workstream I Issues Note of the Intergovernmental Negotiating Committee on the UN Framework Convention on International Tax Cooperation. The comments focus on two key areas discussed in the Issues Note: (1) the fair allocation of taxing rights, and (2) sustainable development.

First, the submission highlights the need for greater conceptual clarity regarding "value creation," which is referenced as a potential basis for allocating taxing rights. We think the current lack of shared understanding among jurisdictions risks inconsistent interpretation and increased disputes. The submission also cautions against attempts to prescribe rigid rules for future business models, noting the difficulty of forecasting technological and structural changes. It further recommends that language used in describing the existing system and in drafting commitments be balanced and diplomatic, to encourage broad participation and respect for sovereignty.

Second, regarding sustainable development, the submission raises concerns over the vague reference to "a number of documents" as the normative basis for including sustainable development language in the Terms of Reference. For transparency and coherence, it is recommended that the Issues Note more clearly indicate the scope and nature of the referenced documents.

## Comments

Thank you for sharing the Issues Note for Workstream I of the Intergovernmental Negotiating Committee. We appreciate the opportunity to provide written comments. Please find below our observations:

### **I. Fair allocation of taxing rights, including equitable taxation of multinational enterprises**

#### **1. Clarification of the Concept of “Value Creation” (Paragraph 12)**

The concept of “value creation” is cited as a potential basis for allocating taxing rights. However, the Issues Note acknowledges diverging views on what constitutes value and where it is created, particularly in relation to demand-side activities. We believe further conceptual clarity is needed:

The meaning of “economic substance” or “value creation” in modern service-based and digital business models is not uniformly understood. In the absence of shared definitions, jurisdictions may adopt inconsistent interpretations, increasing the risk of overlapping taxing rights and disputes. We recommend that the text recognize this ambiguity and caution against prematurely operationalizing “value creation” as a normative principle without further technical work and consensus-building.

#### **2. Caution Against Overly Prescriptive Future Rules (Paragraph 12)**

While we appreciate the emphasis on creating “future-proof” rules, we caution against attempting to prescribe detailed commitments for business models that may not yet exist. The rapid pace of technological innovation and evolving global structures makes accurate forecasting difficult. We believe that commitments should be designed in a principle-based and adaptable manner to ensure lasting relevance.

#### **3. Balanced Framing of the Existing System (Paragraph 13)**

The current framework is described by some as “unfair” in paragraph 13, but we recommend a more neutral and constructive tone. The existing tax system was developed through years of multilateral

negotiation, and many jurisdictions continue to rely on its principles. We are concerned that overly negative framing may undermine the cooperative spirit needed to reform the system. A balanced tone—acknowledging both the strengths and limitations of the current system—would support broader engagement.

#### **4. Diplomatic Language in Draft Commitments (Paragraph 14)**

We note that the phrase “should urge” may be interpreted as overly directive. Given the importance of respecting national sovereignty and maintaining flexibility in negotiations, we recommend using less prescriptive and more consensus-oriented language.

## **II. Sustainable development**

### **1. Clarity on Referenced Documents (Paragraph 16)**

The Issues Note mentions that the language on sustainable development was included in the ToR because the concept is “referenced in a number of documents” and is “well-understood in the UN system.” While we understand that sustainable development is referenced in various UN contexts, the phrase “a number of documents” is too vague to enable a shared understanding. For transparency and interpretive clarity, we suggest more clearly identifying the scope and nature of the referenced documents.

We thank you for your attention to these comments and remain committed to constructive engagement in the negotiation process.